

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2241 - SB 2172**

February 22, 2020

**SUMMARY OF BILL:** Establishes that a contested case hearing is authorized to be conducted when a state agency issues a notice, rather than a citation, to a person, local governmental entity, board or commission for a violation of a rule. Establishes that a hearing officer or administrative law judge is authorized to order the agency to pay the party issued a notice the reasonable expenses incurred because of the notice, if the party prevails on the merits of the allegations and the agency issued the notice to harass or cause needless delay or expense to the party.

Requires a hearing officer or administrative law judge that finds a state agency issued a notice to harass or cause needless delay or expense, to issue a written order of the facts that determined the decision. Authorizes a court to require a license or certificate holder to pay reasonable costs incurred by the Department of Health (DOH) if a party issued a sanction seeks judicial review or a chancery court decision after a contested case hearing.

**ESTIMATED FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

- Pursuant to Tenn. Code Ann. § 4-5-325, when a state agency issues a citation to a person, local governmental entity, board or commission for the violation of a rule, regulation or statute, the citation may result in a contested case hearing.
- The proposed legislation establishes that a contested case hearing between a state agency and a party as a result of the party receiving a notice, rather than a citation.
- Pursuant to Tenn. Code Ann. § 4-5-307(b), a notice is a statement provided to all parties of a contested case detailing the time, place, and nature of a hearing conducted for the case.
- There will not be a significant change in the number of contested case hearings held between state agencies and other parties due to the provisions of the legislation.
- Pursuant to Tenn. Code Ann. § 4-5-325, a hearing officer or administrative law judge is authorized to order a state agency to pay a party issued a citation, at the conclusion of a contested case hearing, if even to the best of the agency's knowledge, the violation was not warranted, or the agency issued the notice to harass or cause needless delay or expense.

- The proposed legislation authorizes a hearing officer or administrative law judge to order a state agency to pay the party issued a notice the reasonable expenses incurred because of the notice, if they find that the party issued the notice prevails on the merits of the allegations and the agency issued the notice to harass or cause unnecessary delay or expense.
- The proposed legislation could result in a decrease in expenditures for state agencies ordered to pay expenses to a party issued a notice after a contested case hearing; however, any decrease is not estimated to be significant.
- A hearing officer or administrative law judge that finds a state agency issued a notice to harass or cause needless delay can issue a written order of the determining facts within existing resources.
- There is not estimated to be a sufficient number of judicial review cases for the DOH to see any significant change in revenue or expenditures.

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/agr